

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE APRIL 30, 2009

SENATE BILL

No. 716

Introduced by Senator Wolk

February 27, 2009

An act to amend Sections 99400, 99401.5, and 99401.6 of, and to add ~~Section 99232.1~~ *Sections 99232.1, 99232.2, and 99232.3* to, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 716, as amended, Wolk. Local transportation funds.

Existing law requires that $\frac{1}{4}\%$ of the local sales and use tax be transferred to the local transportation fund of the county for allocation, as directed by the transportation planning agency, to various transportation purposes. Existing law specifies the allowable uses for local transportation funds, and generally requires these funds to be used for transit purposes in urban counties, while in counties with a population under 500,000 as of the 1970 census and certain other counties, these funds may also be used for local streets and roads, if the transportation planning agency finds that there are no unmet transit needs or no unmet transit needs that are reasonable to meet, and for other specified purposes.

This bill, for counties that had a population of less than 500,000 as of the 1970 decennial census, but that have a population of 500,000 or more as of the 2000 decennial census or at a subsequent census, would require the local transportation funds apportioned to the urbanized areas

of those counties to generally be allocated for public transit purposes and not for street and road purposes, ~~while except that cities in those counties with a population of 100,000 or fewer would be exempt from this requirement.~~ Local transportation funds apportioned to the nonurbanized areas in those counties would remain available for allocation to street and road purposes and for other specified purposes. The bill would delay, until July 1, ~~2013~~ 2014, the application of these new provisions ~~to certain~~ in counties where they apply. The bill would authorize the Ventura County Transportation Commission to submit, by December 31, 2011, a report to the Legislature analyzing options for organizing public mass transportation services in the county and for expenditure of revenues in the local transportation fund, along with a recommended legislative proposal. If a legislative proposal is not enacted by the end of the 2011–12 Regular Session of the Legislature, local transportation funds in Ventura County would be available solely for transit purposes beginning July 1, 2014. The bill, in counties and areas of counties where local transportation funds may be allocated to local streets and roads, would also authorize allocation of those funds for specified farmworker vanpool purposes upon a finding by the transportation planning agency that there are no unmet transit needs or no unmet transit needs that are reasonable to meet and after all of the capital and operating funds necessary to meet unmet transit needs that are reasonable to meet are allocated. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 99232.1 is added to the Public Utilities
2 Code, to read:
3 99232.1. (a) Notwithstanding Section 99232, for each county
4 with a population of less than 500,000 as of the 1970 federal
5 decennial census, but with a population of 500,000 or more as of
6 the 2000 federal decennial census, or a county whose population
7 is 500,000 or more at a subsequent decennial census, the
8 apportionment to the areas within the urbanized areas of the county,
9 as defined for purposes of the 2000 federal decennial census and
10 each census thereafter, shall be available solely for claims for
11 Article 4 (commencing with Section 99260) and Article 4.5

(commencing with Section 99275) purposes. In a county subject to this section, the apportionment for areas outside of the urbanized area of the county may be used for claims for Article 4 (commencing with Section 99260), Article 4.5 (commencing with Section 99275), and Article 8 (commencing with Section 99400) purposes, providing that allocations under Article 8 (commencing with Section 99400) shall be subject to the unmet needs process as prescribed by Section 99401.5.

(b) The apportionment attributable to the unincorporated area within an urbanized area shall be determined by the proportion that the urbanized area's unincorporated area population bears to the total unincorporated population times the total apportionment attributable to the unincorporated area.

~~(b)~~

(c) For a county that becomes is subject to this section as a result of the 2010 decennial census, this section shall not apply to that county until July 1, 2013 2014.

SEC. 2. Section 99232.2 is added to the Public Utilities Code, to read:

99232.2. (a) Notwithstanding Section 99232.1, a city with a population of 100,000 or fewer within an urbanized area in a county subject to Section 99232.1 is not required to expend all of its apportionment for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes.

(b) The population of cities within an urbanized area shall be based on the city and county population estimates published annually by the Department of Finance.

(c) Nothing in this section shall preclude a city with a population of 100,000 or fewer within an urbanized area in a county subject to Section 99232.1 from expending all of its apportionment for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes.

(d) This section shall become operative on July 1, 2014.

SEC. 3. Section 99232.3 is added to the Public Utilities Code, to read:

99232.3. Sections 99232.1 and 99232.2 shall not apply to Ventura County. The Ventura County Transportation Commission may submit to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation a report analyzing options for organizing public mass transportation

1 *services in the county, for the expenditure of revenues deposited*
2 *in the local transportation fund, and a recommended legislative*
3 *proposal for implementing the plan by December 31, 2011. If the*
4 *legislative proposal is not enacted by the end of the 2011–12*
5 *Regular Session of the Legislature, revenues deposited in the local*
6 *transportation fund in that county shall be available for the fiscal*
7 *year beginning on July 1, 2014, and each fiscal year thereafter;*
8 *solely for claims for Article 4 (commencing with Section 99260)*
9 *and Article 4.5 (commencing with Section 99275) purposes.*

10 ~~SEC. 2.~~

11 SEC. 4. Section 99400 of the Public Utilities Code is amended
12 to read:

13 99400. Claims may be filed under this article with the
14 transportation planning agency by counties and cities for the
15 following purposes and by transit districts for the purposes
16 specified in subdivisions (c) to (f), inclusive:

17 (a) Local streets and roads, and projects which are provided for
18 use by pedestrians and bicycles.

19 (b) Passenger rail service operations and capital improvements.

20 (c) Payment to any entity which is under contract with a county,
21 city, or transit district for public transportation or for transportation
22 services for any group, as determined by the transportation planning
23 agency, requiring special transportation assistance.

24 If the county, city, or transit district is being served by an
25 operator, the contract entered into by the county, city, or transit
26 district shall specify the level of service to be provided, the
27 operating plan to implement that service, and how that service is
28 to be coordinated with the public transportation service provided
29 by the operator. Prior to approving any claim filed under this
30 section, the transportation planning agency, or the county
31 transportation commission in a county with such a commission,
32 shall make a finding that the transportation services contracted for
33 under subdivision (c) are responding to a transportation need not
34 otherwise being met within the community or jurisdiction of the
35 claimant and that, where appropriate, the services are coordinated
36 with the existing transportation service.

37 (d) Payments to counties, cities, and transit districts for their
38 administrative and planning cost with respect to transportation
39 services under subdivision (c).

(e) Notwithstanding any other provision of this chapter, a claimant for funds pursuant to subdivision (c) may also receive payments for capital expenditures to acquire vehicles and related equipment, bus shelters, bus benches, and communication equipment for the transportation services.

(f) Acquisition or lease of vans and related equipment for a farmworker vanpool program for purposes of farmworker transportation to and from work, *provided the farmworker vanpool program shall use vans or related equipment for a commuter vanpool as defined by Section 37.3 of Title 49 of the Code of Federal Regulations and the regional transportation planning agency conforms with the planning requirements of Section 5306 of Title 49 of the United States Code and Part 613 (commencing with Section 613.100) of Chapter VI of Title 49 of the Code of Federal Regulations.*

~~SEC. 3.~~

SEC. 5. Section 99401.5 of the Public Utilities Code is amended to read:

99401.5. Prior to making any allocation not directly related to public transportation services, specialized transportation services, or facilities provided for the exclusive use of pedestrians and bicycles, or any allocation for purposes of subdivision (f) of Section 99400, the transportation planning agency shall annually do all of the following:

(a) Consult with the social services transportation advisory council established pursuant to Section 99238.

(b) Identify the transit needs of the jurisdiction which have been considered as part of the transportation planning process, including the following:

(1) An annual assessment of the size and location of identifiable groups likely to be transit dependent or transit disadvantaged, including, but not limited to, the elderly, the handicapped, including individuals eligible for paratransit and other special transportation services pursuant to Section 12143 of Title 42 of the United States Code (the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101, et seq.)), and persons of limited means, including, but not limited to, recipients under the CalWORKs program.

(2) An analysis of the adequacy of existing public transportation services and specialized transportation services, including privately

1 and publicly provided services necessary to implement the plan
2 prepared pursuant to Section 12143(c)(7) of Title 42 of the United
3 States Code, in meeting the transit demand identified pursuant to
4 paragraph (1).

5 (3) An analysis of the potential alternative public transportation
6 and specialized transportation services and service improvements
7 that would meet all or part of the transit demand.

8 (4) An analysis of the need to acquire or lease vans and related
9 equipment for a farmworker vanpool program pursuant to
10 subdivision (f) of Section 99400. This analysis is only required,
11 however, upon receipt by the transportation planning agency of a
12 request of an interested party identifying a potential need.

13 (c) Identify the unmet transit needs of the jurisdiction and those
14 needs that are reasonable to meet. The transportation planning
15 agency shall hold at least one public hearing pursuant to Section
16 99238.5 for the purpose of soliciting comments on the unmet transit
17 needs that may exist within the jurisdiction and that might be
18 reasonable to meet by establishing or contracting for new public
19 transportation or specialized transportation services or by
20 expanding existing services. The definition adopted by the
21 transportation planning agency for the terms “unmet transit needs”
22 and “reasonable to meet” shall be documented by resolution or in
23 the minutes of the agency. The fact that an identified transit need
24 cannot be fully met based on available resources shall not be the
25 sole reason for finding that a transit need is not reasonable to meet.
26 An agency’s determination of needs that are reasonable to meet
27 shall not be made by comparing unmet transit needs with the need
28 for streets and roads.

29 (d) Adopt by resolution a finding for the jurisdiction, after
30 consideration of all available information compiled pursuant to
31 subdivisions (a), (b), and (c). The finding shall be that (1) there
32 are no unmet transit needs, (2) there are no unmet transit needs
33 that are reasonable to meet, or (3) there are unmet transit needs,
34 including needs that are reasonable to meet. The resolution shall
35 include information developed pursuant to subdivisions (a), (b),
36 and (c) which provides the basis for the finding.

37 (e) If the transportation planning agency adopts a finding that
38 there are unmet transit needs, including needs that are reasonable
39 to meet, then the unmet transit needs shall be funded before any
40 allocation is made for streets and roads within the jurisdiction.

(f) The transportation planning agency shall not allocate funds for purposes of subdivision (f) of Section 99400 until all of the capital and operating funds necessary to meet unmet transit needs that are reasonable to meet are allocated. The transportation planning agency shall not reduce funding to existing public transportation services, specialized transportation services, or facilities for the exclusive use of pedestrians and bicycles in order to allocate funds for purposes of subdivision (f) of Section 99400. *The transportation planning agency shall not allocate funds under subdivision (f) of Section 99400 if the allocation replaces other federal, state, or local funds used to fund commuter vanpools by a county, city, transportation planning agency, or transit district.*

~~SEC. 4.~~

SEC. 6. Section 99401.6 of the Public Utilities Code is amended to read:

99401.6. Upon adoption of a finding, pursuant to subdivision (d) of Section 99401.5 that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, the transportation planning agency may allocate funds for local streets and roads or for a vanpool program as specified in subdivision (f) of Section 99400. The allocation shall not become effective until 20 days after acknowledgment of receipt by the Department of Transportation of documents of the agency's finding. The transportation planning agency shall, in any case, submit the documentation before August 15 of the fiscal year of the allocation or within 10 days after the adoption of the finding, whichever is later. The documentation shall include all of the following:

(a) A copy of the notice of hearing and proof of publication and a description of the actions taken to solicit citizen participation pursuant to Section 99238. 5.

(b) A copy of the resolution or minutes documenting the transportation planning agency's definitions of "unmet transit needs" and "reasonable to meet," as determined pursuant to subdivision (c) of Section 99401.5.

(c) A copy of the resolution adopting the unmet needs finding described in subdivision (d) of Section 99401.5.